

Mr. John R. Horan
Fox and Horan
[REDACTED]

November 11, 1992

Re: American Numismatic Society

Dear John:

I particularly enjoyed the New York meeting with you at which I outlined the predicament of the ANS. I was glad you understood all of its complications and nuances. Your interest in seeing things straightened out was appreciated. I hope that you have now read the file I left with you to see how ANS has been stonewalled.

I have already reported our discussion to Leslie Eiam, the director of ANS, and shortly I will report it to a few others. I had previously outlined the basis of my thinking to the Council at their October meeting and there was no contrary comment.

I am hopeful that there will be a voluntary return of 40 pieces or more by the end of 1992, but most people do not feel that anything will happen. We want to avoid litigation as long as we do not lose our rights or become subject to criticism for delay, but I favor moving forward now. We expect, if requested, to surrender the substituted coins to those returning stolen ANS coins voluntarily in appropriate situations before suit is filed.

The arrangements we discussed as to compensation for your firm is for ANS to advance to you from time to time your actual out of pocket expenses which are not to include compensation of persons in your office or office expenses. ANS should have the right to approve in advance any substantial expenses for which it is initially obligated. To the extent stolen coins are recovered those expenses come out of the proceeds of the first substituted coins thereby released. Your firm's compensation will be the balance of the value of the released coins unless you wish the released coins themselves. Released coins are those varieties of coins substituted by the thief which are the identical varieties of the stolen coins which are recovered. The substituted coins are all choice pieces but not as superb as the pieces stolen. There is a substituted coin of the same variety of each stolen coin with one or two exceptions.

Stolen coins recovered after ANS files suit will be considered recovered by the litigation regardless of whether they are turned back to ANS through you or otherwise. ANS's prior offer to return a substituted coin to innocent people who turn in a stolen coin should be unavailable after suit is filed, because the time for such a return has run out. I have not thought through what happens in case someone wants to compromise with ANS after you have filed suit. I am inclined not to compromise because I feel ANS should maintain a uniform position which might have to be applied to many different people in the future. Your thoughts on this will be important.

As soon as you talk this matter over with your firm and I explain the matter further to ANS, we can, if all agree, start working on factual matters.

My hope is that there will be no real contest of any legal proceedings, even though there might be the expected assertions of hurting the innocent; criticism of the ANS for not doing things earlier and inferences that ANS employees were involved. I believe we have a duty to the public and to our constituency to assert our rights vigorously, and that everyone will realize that we are doing the necessary and right thing. I believe no ANS employees were involved in or were originally aware of the substitution scheme.

Much of what I have learned about this situation has been told to me orally (or in confidence) as that is the only way I could get it in many situations. I told each I was obliged to report to ANS anything I learned after holding it in confidence as long as I reasonably could.

You asked me if I would be the ANS contact for the case and furnish the facts to you. I will be glad to do so as long as ANS wants me to do that. Others at ANS will have very helpful input. Anytime you wish to meet with any of our Council members or staff or make a report to our Council that will be welcome. I am continuing to ask people to help us locate the stolen coins, and I believe that once the power of subpoenas or interrogatories looms on the horizon, we are likely to get much more cooperation from those who have been fearful about being accused of snitching. Charles Newman (no relation) who has already given me some legal advice on the matter in St. Louis will return your telephone call to give you some of his thoughts.

I will be glad to work with you toward any clarification or modification of any of the thoughts expressed in this letter. Let me know your thinking.

It will be a pleasure to have you examine the nice coins which were substituted by the thief to show you what you might be the proud owners of. Perhaps we will make U.S. cent collectors out of you or some of your firm and then in due course you can enjoy the broad scope of numismatics as one of the most exciting of scholarly disciplines.

My kindest personal regards and thanks.

Sincerely,

Eric P. Newman

John R. Horan
Fox and Horan


November 24, 1992

RE: American Numismatic Society

Dear John:

Thank you very much for your letter of November 20, 1992. I hope your representation of ANS will be beneficial to both of you and quickly accomplished.

I am informing ANS of the thoughts you expressed in your letter. I do feel I should clarify that compensation for legal services (not out of pocket expenses) are contingent upon the proceeds of substituted coins released on the recovery of the stolen coins. When you submit data on services and hours of attorney work those will not be a billing but a justification for the contingent recovery. The billing, as you stated, will be for your out of pocket expenses.

My best to you and yours for a happy thanksgiving.

Cordially,

Eric P. Newman

John R. Horan
Richard C. Leonard

June 2, 1993

RE: ANS Clapp Cents

Dear Counsellors:

When you included in the counterclaim the recovery of the value of Clapp Cents "sold" by Naftzger after he had received notice of the Bland Report as well as the December 12, 1991 ANS letter stating that certain Clapp cents appeared to be in his possession, you anticipated a situation which has abruptly expanded. There may be at least 4 Clapp cents which were not retained by Naftzger when he sold his cent collection to Streiner in February -March 1992 and retained 40 more or less of Clapp cents.

Later that year Streiner voluntarily sent ANS a 1797 Clapp cent he had acquired from Naftzger. We assumed that an error had been made by Naftzger and that Streiner corrected the error by restoring the 1797 Clapp cent to ANS.

Recently John Kleeberg of ANS noticed three advertisements of choice cents for sale which may be missing Clapp cents sold by Naftzger to Streiner.

One was an 1813 cent which Streiner sold to Dennis Loring and which Loring then sold to Robby Brown. There has been recent correspondence between Loring and ANS, Loring believing it is not a Clapp cent and Kleeberg rather certain it is. Loring indicated that Bland had passed on it previously, but in a telephone call to Bland yesterday he said he discussed it in 1992 in Los Angeles without his records and told Loring and Naftzger that he was in doubt. We have just written Bland for his opinion. If Kleeberg's opinion is confirmed by Bland do we notify Loring, Robby Brown or Streiner or any one or more of them? As you may know Robby Brown already turned in an 1803 Clapp cent he had obtained long ago.

The other two cents were advertised in Coin World in May 1993 by "The Mint" of Kansas City, MO. These were apparently bought by "The Mint" from Streiner in 1992. They are a 1794 cent (price \$2,500) and a 1798 cent. We have already asked Bland for his opinion on these. If these turn out to be Clapp cents do we notify "The Mint" or Streiner or both in order to prevent further problems or criticism?

It is entirely possible that there are more Clapp cents which went from Naftzger to Streiner and beyond, but we do not know what they may be or their whereabouts at this time.

We want to do the right thing in a timely manner. What do you suggest.

Sincerely,

John R. Horan
Fox and Horan
[REDACTED]

February 6, 1995

Dear John:

The revised brief is now bordering on a masterpiece. I am convinced of its effectiveness. Team work is essential. I think you are lucky to have had extra time.

I have a few suggestions:

Page 4, line 11, use "Numismatists".

Page 5, line 2, add "superb" in front of "collection".

Page 6, line 4, add "possibly" or change it to "months or years" as we do not know how long.

Page 6, line 15, use "about half" instead of "the majority".

On page 7 write out \$ 10,000,000.00 (Ten Million Dollars) for impact.

On page 31 please state "ANS is continuing its search for other Clapp coins." rather than an intention.

On page 38 the date 1992 should be 1991 and 1992.

Do you think Sheldon's nude photos would help ? Should we play the violin ? Further affiant sayeth more.

Sincerely,

Eric P. Newman

cc: Leslie Elam
John Kleeberg

John R. Horan
Fox & Horan
[REDACTED]

February 15, 1995

Dear John:

The rumors reported in your February 7, 1995 letter as to ANS are ridiculous. ANS is merely talking to the NY Historical Society about ANS becoming the owner and user of the first three stories, etc. of a proposed high rise apartment building on vacant property on 76th Street owned by NY Historical Society and adjacent to its existing headquarters.

Why don't you start a rumor that ANS is going to win the Clapp case on appeal. That I will believe.

Sincerely,

Eric P. Newman

Mr. John Horan
Fox & Horan


April 17, 1995

Dear John:

To keep you up to date on stolen coin lore I enclose the March 6, 1995 Coin World article on the Confederate Half Dollar of Jefferson Davis which is now offered for sale by Stacks of New York City supported by background as to its alleged theft. I also enclose a letter to the editor of Coin World published in their April 24, 1995 issue written by Bob Scripko as to selling stolen coins. I do not know Bob Scripko and have had no contact with him. I do know there was litigation over this coin about 1961 in which a squabble included other issues and was finally settled by the "Confederate souvenir collector."

Another potential *Amicus Curiae*.

Regards,

Eric P. Newman

cc: American Numismatic Society

John R. Horan
Fox & Horan
[REDACTED]

March 18, 1996

Dear John:

Your March 15, 1996 fax on legal fees needs further review. I want to be fair to you and to ANS.

You may not have taken into consideration the Naftzger situation where he "sold" some ANS coins to Streiner after being specifically advised by ANS (with pictures) that they were stolen coins. He might also have parted with other ANS coins after knowledge that they belonged to ANS. In these situations we may not get the ANS coins back and may get money damages only.

Of the ANS coins Naftzger sold after knowing they were claimed by ANS one was recovered from Brown at a cost to ANS of \$1,250 which was paid to you from the substituted coin sale. Another was recovered from Brown at a cost of the full value of the substituted coin half of which is to go to Brown and half to you. In another instance I think Streiner got a substituted coin in exchange which ANS would not have had to part with if Naftzger had not sold it to Streiner after Naftzger knew or had reason to know it was ANS property. In The Mint (Parrino) matter Naftzger "sold" these to Streiner after knowing of the ANS claim and they went then to The Mint and are God knows where now. Parrino may still have the coins or "sold" them or returned them to Streiner who could have returned them to Naftzger. As to them, Parrino offered them for sale for \$82,500 and \$35,000 in his advertisements in 1993.

You certainly are not limited to New York and California as to recovery benefits as this shows but when you need help in other states (as you did in California) then contingent fee showing ought to be fairly adjusted.

You assume I believe that triple damages in the California case are the only basis for money recovery if we are successful. The above items indicate other predicaments. Can you imagine how many situations of a bizarre nature will arise when ANS learns where the other cents are?

This is a complex mess but we will work out our legal fee arrangement on a sound basis. Just think where we were for years before December 1995 when things brightened up.

Sincerely,

Eric P. Newman

John R. Horan
Fox & Horan
[REDACTED]

May 28, 1996

Re: Naftzger v ANS

Dear John:

Thank you for your letter of May 14, 1996 with enclosures.

I call your attention to the Remittitur notice of May 10, 1996 by the Clerk of the Court of Appeal which states the opinion, decision, and order entered February 1, 1996 is now final. This may be incomplete as the opinion was modified by order of March 4, 1996. Perhaps the modification was included retroactively but I want to be sure that was certified.

There are two depositions which can be taken in your area, Denis W. Loring (New York) and John Adams (Boston). Both have given me information about the theft. Both knew Sheldon personally. Both will probably be very reluctant to testify as they were previously when we tried to have them testify. Perhaps we can serve them and then discuss how broad the questions may be.

I think they will put pressure on Naftzger to give up. They may not want to disclose where the other stolen coins are if they know. They may not want to admit they bought or sold stolen coins knowing what they did. They may say they thought the time had passed for ANS to claim them. It is not easy to anticipate what they will say as it may be for or against us. Naftzger will call them in any event if they are against us.

Further thoughts cometh,

Eric P. Newman

John R. Horan
Fox & Horan


July 2, 1996

Dear John:

Enclosed is a copy of a letter received from Alan J. Prescott in answer to the ANS letter to him.

Giving him his wish would involve coins which constitute some of your fee. What suggestion do you have.

Sincerely,

Eric P. Newman

cc:
John Kleeberg

John Horan
Oleg Rivkin
Fox & Horan


September 16, 1997

Dear John and Oleg:

I enclose an article in Coin World for September 22, 1997 indicating the Professional Numismatic Guild is ready and willing to file an Amicus Curiae brief in the 1933 Double Eagle matter. A prior article accuses ANS among others for not doing anything copy enclosed). No one seems to talk about the fact that a 1933 Double Eagle disappeared at the Farouk Auction in Egypt.

It is of interest that PNG did not take any position in Naftzger v. ANS although many outside the numismatic field did. Naturally, I have no idea what position PNG would take in the ANS matter.

Sincerely,

Eric P. Newman

cc: Leslie Elam
John Kleeberg

John R. Horan
Oleg Rivkin
Fox, Horan & Camerini
[REDACTED]

September 29, 1997

Re: Naftzger V. ANS

Dear John & Oleg:

Pending the California decision I believe ANS should think about the other stolen coins which we have leads to by virtue of the discovery of the list located in Naftzger's files.

To what extent is the discovery to be kept under wraps by ANS? Should we do anything about being authorized to use the information to write to the past or present possessors of the stolen coins.

Naturally we will await the decision before writing so that we hopefully can mention the decision. Are we charged with possible knowledge of where the coins are from the date we made the discovery?

We will appreciate your guidance.

Sincerely,

Eric P. Newman

cc: John Kleeberg
Leslie Elam

John M. Horan
Fox, Horan & Camerini
[REDACTED]

January 27, 1998

Re: Naftzger v. ANS

Dear John:

Thank you for your fax of January 26, 1998.

Your comments on the appeal lead me to ask you why triple damages do not apply to the returned coins also. I was informed that the returned coins were not valued in the trial evidence but their recovery is part of the judgment just as the money damages are. If so their value would have to be determined by the Superior Court along with the attorney's fees if ANS is successful in the appeal. I also ask if attorneys' expenses and related items are added to actual attorneys' fees as ANS has paid much of that expense.

Hoping the 38 cents are singing:

"Get me to the safe on time".

Sincerely,

Eric P. Newman

To: Fox, Horan & Camerini

From: Eric P. Newman

Copy to: ANS

Date: March 6, 1998

I believe you are going to determine in due course whether:

A) Triple damages and attorneys fees in California also apply to the 38 coins recovered in the Naftzger case. This is a big sum.

B) Whether triple damages mean three times the "damage" as a penalty plus the actual damage or two times the "damage" as a penalty plus the damage.

C) If triple damages do not apply to the replevined items could your attorneys fees be claimed to be reduced by the time devoted to recovering the replevined coins and confined to recovery of the money damages for stolen coins sold. This would be idiotic.

John R. Horan
Fox, Horan & Camerini
[REDACTED]

January 4, 1999

Dear John:

Your December 23, 1998 letter to Leslie concerning ANS California legal fees causes me to answer as to how I feel.

Why should we take up a complex subject of services in several cases at this time when it may become mostly moot if we win the pending appeal as to attorneys fees? All our efforts, your efforts and their efforts should go into the appeal and not get hung up on related litigation.

Happy new year,

Eric P. Newman

cc: Leslie Elam

John R. Horan
Fox, Horan & Camerini
[REDACTED]

January 21, 1999

Dear John:

In the oral argument in the Naftzger appeal you might want to end with language such as:

"If there ever was a case in which adding triple damages and attorney's fees under Section 496 as punishment for knowingly withholding and secreting stolen property from its rightful owner for a long period of time THIS CASE IS IT."

Sincerely,

Eric P. Newman

Mr. John R. Horan
Fox, Horan & Camerini

March 3, 2000

Re: Naftzger II

Dear John:

In your March 2, 2000 letter you indicate you plan to do nothing much for the preparation for the trial. It occurs to me that the false pedigree envelopes and all data relating to the 1972 purchase by Naftzger from Sheldon which were requested in Naftzger I and not previously furnished should be requested again. This will relate to the possible Naftzger claim the he bought the switched in coins from Sheldon. You felt that some of this data might not have been furnished before.

You may also need further evidence to support your claim that Naftzger II is nothing more than a revival of Naftzger I so your attorney's fees and expense of Naftzger II can be included in the section 496 matter.

You may already have planned to do this but you know I am thinking about the matter and don't hesitate to make suggestions.

Sincerely,

Eric P. Newman

Mr. John R. Horan
Fox, Horan & Camerini
[REDACTED]

March 3, 2000

Re: Naftzger I

Dear John:

Apparently the 38 stolen ANS cents in the New York safety deposit box are to be turned over to you in accordance with Judge Bohh's recent order, a copy of which you sent me.

I suggest that you seal them up in a container before delivering them to ANS so that there can be no claim that these are not the identical cents Naftzger had to yield. These cents will probably have to be valued for the Section 496 damages and possible loss of use value.

I suggest that you recommend to ANS in writing that the container not be opened for a while. When the container is opened a photographer should take pictures of the coins with whatever witnesses present as may be advisable.

You wonderful work is finally becoming a reality.

Sincerely,

Eric P. Newman

To: John R. Horan, etc.

June 20, 2000

David Schultz, etc.

From: Eric P. Newman Numismatic Education Society

We thought up a parable, which may have an important effect on a judge's thinking, particularly as to a feminine judge.

A lady wishes to have her genuine pearl necklace appraised for insurance purposes. The appraiser steals many of the pearls in the necklace. The appraiser sells the stolen pearls to various parties. After the appraiser's death the theft is proven, and some of the pearls are recovered by the victim. Has anyone who acquired possession of the stolen pearls the right to recover the substituted artificial pearls from the victim? The answer is obvious.

Hopefully this parable is a genuine pearl.

To:
John R. Horan, etc [REDACTED]
David Schultz, etc [REDACTED]

June 26, 2000

From:
Eric P. Newman Numismatic Education Society

IMPROVED PARABLE

A lady wishes to have her pearl necklace appraised for insurance purposes. It is composed of all genuine pearls which are graduated in size. The appraiser steals some but not all of the pearls in the necklace and substitutes artificial pearls of similar sizes in place of the stolen genuine pearls. The thief "sells" the stolen pearls to several different parties. After the thief dies the theft is proven and some but not all of the stolen pearls are recovered by the victim. The necklace is reassembled to the extent possible and then contains (1) some original pearls which were not stolen, (2) some original pearls which were stolen and recovered and (3) some artificial pearls switched in by the thief in place of the original pearls which were not recovered. The victim has loose artificial pearls in those cases where recovery of genuine pearls was made.

The artificial pearls which were switched in as part of the theft and intended for deception and thus were placed in the permanent possession and under full control of the victim as a fundamental element of the crime. They belonged to the victim and therefore cannot be recovered by or through the thief or the thief's estate.

As to the victim's rights to the ownership of the artificial pearls it makes no difference if the stolen genuine pearls were recovered or were not recovered. If the thief and the thief's estate have no recovery rights to the artificial pearls neither of them could transfer something to which they did not have any remaining ownership rights. No third party could acquire rights to them through the thief or the thief's estate because there were no remaining ownership or control rights to acquire.

In addition in many states the claim by anyone knowingly possessing stolen pearls and withholding them from the victim would constitute a separate crime and would be in a similar criminal category to the thief and unable to assert any claim in a court.

It is of interest to observe that it would even further destroy the value and quality of the victim's necklace if the artificial pearls were withdrawn from the places where stolen pearls in the necklace were not yet recovered, as that would leave those places in the necklace empty and the entire necklace defective in appearance. How can a claim by anyone for the artificial pearls depend on whether the genuine switched out pearls were or were not recovered by the victim?

The original owner of the pearl necklace (the victim) became the owner of the artificial pearls by virtue of the thief permanently surrendering and releasing all ownership and control rights to the switched in artificial pearls. It is more than abandonment and is a transfer of property to the victim as a fundamental element in the theft scheme and intended deception.

John R. Horan
Fox, Horan & Camerini
[REDACTED]

July 27, 2000

Dear John:

I just read your letter to Tony Terranova dated July 20, 2000 as I was in Massachusetts on vacation.

As to the proposed settlement offer from Naftzger's attorneys your view expressed to Tony is optimistic. I wish I could feel that way. Their request for a delay in the hearing is also aimed at delaying accrual of interest on both the penalty part of the money judgment and the coin value because those penalties have not yet been ordered by the trial court. The interest accruing on the basic money judgment continues, but the interest on the coin recovery portion terminated on the release from escrow.

The July 7, 2000 letter from the California attorneys for ANS omits any mention of the assertion of the right to recover fees from Naftzger II under the Naftzger I decision and I feel that is important not to omit. We will do our best to satisfy everyone.

Incidentally Tony told me he would waive his fee for the appraisal but naturally out of pocket expense would be reimbursable.

Keep the faith,

Eric P. Newman